

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

STATE OF MISSOURI,

Respondent,

v.

ALLEN W. HAUSE,

Appellant.

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**DOCKET NUMBER WD73643**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** May 9, 2012

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**APPEAL FROM**

The Circuit Court of Boone County, Missouri  
The Honorable David C. Mobley, Special Judge

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**JUDGES**

**PER CURIAM** - Division Two: Howard, P.J., and Pfeiffer and Mitchell, JJ.    **CONCURRING.**

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**ATTORNEYS**

Chris Koster, Attorney General  
Mary H. Moore, Assistant Attorney General  
Jefferson City, MO

Attorneys for Respondent,

William J. Swift, Assistant Public Defender  
Columbia, MO

Attorney for Appellant.

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI, )  
)  
Respondent, )  
v. ) **OPINION FILED:**  
) **May 9, 2012**  
ALLEN W. HAUSE, )  
)  
Appellant. )

**WD73643**

**Boone County**

**PER CURIAM**

**Before Division Two Judges:** Victor C. Howard, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Allen W. Hause appeals his convictions and sentences for two counts of tampering with a judicial officer, section 565.084. Hause contends that the evidence was insufficient to establish that his harassing phone calls affected the victim in the performance of his judicial officer duties and that the court erred in failing to instruct the jury on misdemeanor harassment as a lesser-included offense of tampering with a judicial officer. Finding no error of law, we affirm.

**AFFIRMED.**

**Division Two holds:**

First, the fact that Hause's harassing phone calls did not seek to induce any particular actions by the judge in Hause's case does not mean that the evidence was insufficient to prove that he harassed the judge in the performance of the judge's official duties. Tampering with a judicial officer does not require any case-specific threat or harassment; it need only relate to a judicial officer's official acts, generally. Here, Hause's harassment of the judge related to the judge's action of ordering Hause's bond forfeited – an action taken in the performance of the judge's official duties. Thus, the evidence was sufficient.

Second, Hause was not entitled to an instruction on misdemeanor harassment. To qualify as a lesser-included offense, all elements of the lesser offense must be necessary to establish the greater offense. While Hause's conduct may also have constituted misdemeanor harassment, harassment requires proof of elements beyond those required to prove tampering with a judicial officer (specifically, a threat to commit a felony and an effect on the victim as a result of the threat). Because harassment does not constitute a lesser-included offense of tampering with a judicial officer, no instruction was required.

**PER CURIAM OPINION**

May 9, 2012

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.